

II. REMARKS

This paper is filed in response to the Restriction Requirement and Election of Species Requirement dated November 21, 2008, in connection with the above-identified patent application.

By this Amendment, claims 1, 2, 3, 8, and 26 are amended, and claims 4-7 are canceled. Support for the amendment can be found in the specification and claims as originally filed. For example, support for claim 1 can be found at least on page 29 (Example 5) of the specification. Applicants submit that no new matter has been added.

The Restriction Requirement asserted that the claims define two (2) allegedly independent and distinct inventions and required the Applicant to elect one of the following two inventions:

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| Group I | Claims 1 – 8 and 26, drawn to compounds and compositions thereof, classified in classes 540 and 552, several subclasses, and |
| Group II | Claims 9-25, drawn to various methods of using the compounds of Group I, classified in class 514, various subclasses. |

The Examiner also asserted that Applicants must elect one of the following species:

1. B is hydrocortisone, X_1 is Y_{AR1}
2. B is hydrocortisone, X_1 is Y_{AR2}
3. B is hydrocortisone, X_1 is Y_p and wherein Y^3 is (Y1) and t_3 is zero
4. B is budesonide, X_1 is Y_{AR1}
5. B is budesonide, X_1 is Y_{AR2}
6. B is budesonide, X_1 is Y_p and wherein Y^3 is (Y1) and t_3 is zero

Applicants hereby elect Group 1, claims 1-8 and claim 26, drawn to compounds and compositions thereof, with traverse. Applicants also elect Species 4, wherein B is budesonide and X_1 is Y_{AR1} , with traverse. Applicants reserve the right to file one or more divisional applications to the non-elected subject matter.

This election is made with traverse. Traversal is on the grounds that the burden on the Patent Office to consider all of the groups of claims and species together is less than the burden on Applicants/the public to prosecute/search the applications/patents separately. Further, Applicants disagree with the Examiner's assertion that the listed "species are independent or distinct because as disclosed the different species have mutually exclusive characteristics for each identified species" (Office Action, page 4). Applicants submit that they have "unexpectedly found that the invention compounds wherein the linking group X_1 is selected from the above mentioned bivalent radicals, allow to obtain... results unexpectedly and surprisingly improved with respect to the nitrooxy derivatives wherein the linking group X_1 is an alkylene and/or with respect to the corresponding precursor steroids" (specification, page 21, lines 18-24). Applicants submit that the species have a common characteristic of improved receptor binding (see specification, page 21, lines 25-28). Therefore, Applicants respectfully request reconsideration and withdrawal of the Restriction Requirement and/or Election of Species Requirement.

In view of the Applicants' above elections, Applicants respectfully submit that the Restriction Requirement and the Election of Species Requirement have been satisfied. Applicants submit that claims 1-3 and 8-26 read on the elected invention and the elected species. Accordingly, Applicants respectfully request examination of claims 1-3 and 8-26 on the merits.

III. CONCLUSION

Applicants respectfully submit that this application is in condition for allowance and such action is earnestly solicited. If the Examiner believes that anything further is desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below to schedule a personal or telephone interview to discuss any remaining issues.

In the event this response is not timely filed, the Applicants hereby petition for an appropriate extension of time. The fee for this extension, along with any other additional fees which may be required with respect to this response, may be charged to Deposit Account No. 01-2300, referencing Attorney Docket No. 026220-00048.

Respectfully submitted,



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